

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

97-CR-169-WMS

v.

**RESPONSE TO GOVERNMENT
MOTION TO FILE VICTIM
IMPACT STATEMENTS**

DAVID A. KRAUSE,

Defendant,

KIMBERLY A. SCHECHTER, affirms under penalty of perjury that:

I am an Assistant Federal Public Defender in the Western District of New York and was assigned to represent David A. Krause, on September 27, 2010. I make this affirmation in opposition to the Government's motion for a protective order and order to seal victim impact statements to the extent that it seeks permission to file statements involving an unrelated offense that occurred 13 years ago. (*see* Document No. 45).

In Document No. 45, the Government requests that impact statements submitted by the mother and girlfriend of one of the victims relating to a crime committed by David Krause in 1997 be considered now for the sentencing of Mr. Krause for an unrelated offense.

It is respectfully submitted that such statements are irrelevant to the presently charged violation offense with occurred on September 17, 2010. The conduct alleged in the September

17, 2010, incident has nothing to do with the past offense.

While the defense concedes that the court may consider many factors when imposing sentence, it is submitted that this is a misuse of the statute and serves no legitimate purpose other than to inflame the court. The authors of the Impact Statements are not victims of the crime for which Mr. Krause now faces sentencing and therefore are not victims under the Crime Victims' Rights Act.

As such, it is respectfully requested that the statements be neither considered, nor filed, relevant to the upcoming sentencing.

DATED: Buffalo, New York, October 27, 2010.

Respectfully submitted,

/s/Kimberly A. Schechter

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To: Paul J. Campana
Assistant United States Attorney

Wm. Brian Burns
United States Probation Officer

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CERTIFICATE OF SERVICE

I hereby certify that on **October 27, 2010**, I electronically filed the foregoing with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

1. Paul J. Campana
Assistant United States Attorney
Western District of New York
138 Delaware Avenue, Federal Centre
Buffalo, New York 14202

And, I hereby certify that I have e-mailed the document to the following non-CM/ECF participant(s).

1. Wm. Brian Burns
U.S. Probation Officer
U.S. Probation Department
404 U.S. Courthouse
68 Court Street
Buffalo, New York 14202

/s/ Kimberly Schechter
Assistant Federal Public Defender